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MEMORANDUM FOR: Legislative Counsel

SUBJECT : Department of Defense Bill to Amend Temporary Statutes Relating to Benefits in Cases of Injury, Death or Detention

REFERENCE : Memorandum from Legislative Counsel to AD/P, dated 23 November 1954, same subject

1. In accordance with your request, we have reviewed the Department of Defense bill which was submitted to the Agency by the Bureau of the Budget for review and comment.

2. In the course of our comparative review of the existing temporary statutes and the proposed legislation (see Tabs A, B and C), the following features of significance to the Agency have been observed:

a. Coverage of U. S. contractors under War-Risk Hazards Act (42 USCA 1701-1717).

(1) The bill proposes permanent legislation authorizing in time of war the payment to U. S. contractors of (a) an "employees' compensation" type of coverage in the case of an injury or death resulting outside the U. S. from a situation arising out of a war-risk hazard, and of (b) a "missing persons" type of benefit in the event of detention by an enemy. The bill covers persons engaged by the U. S. under a contract for personal services outside the continental United States.

(2) Other features include the coverage of aliens, and elimination in most cases of the "performance of duty" criterion (required in the Employees' Compensation Act) in establishing eligibility for benefits.

b. Extension of War-Risk Hazard benefits to Federal Employees in War-Time (5 USCA 801).

(1) The proposed legislation would authorize the payment of employees' compensation benefits to Federal employees in war-time without regard to the "performance of duty" concept provided the illness, death or detention by an enemy occurs under employment conditions recognized as being a "war-risk hazard" (as defined in the War-Risk Hazards Act).

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(2) The temporary statute lapsed on 1 July 1954, and the proposed bill would make the legislation applicable in any period of war.

c. Provision of Benefits of Longshoremen's and Harbor Workers' Compensation Act to U. S. contractors (42 USCA 1651-1654).

(1) The benefits of this Act are currently provided certain types of U. S. employees and employees of U. S. contractors who work on U. S. military installations and U. S. public works projects outside the continental United States conducted by any U. S. agency or corporate entity. The proposal of the Department of Defense would extend the coverage of contract employees and employees of U. S. contractors working outside the U. S. by deleting the limiting factor now applied to such projects, i.e., public works activity.

(2) It would therefore appear that the proposal would extend the workman compensation benefits of the Longshoremen's Act to independent contractors of the Agency and to employees of contractors, sub-contractors and subordinate contractors. Such coverage would include aliens, as well as U. S. citizens.

3. Our comments on the proposed legislation are conditioned upon the belief that our interpretations of this complex subject should be reviewed and confirmed by the Office of the General Counsel. We believe, however, that the proposed legislation would pose major security problems if enacted in its present form--particularly if it includes coverage of aliens as contemplated.

a. If most Agency covert personnel are made eligible for disability and death benefits under one or more provisions of the bill, major difficulties in processing claims in a secure manner can be anticipated. For example, the coverage of independent contractors under 42 USCA 1701-1717 and 42 USCA 1651-1654 would necessitate the submission of information on such personnel to the Bureau of Employees' Compensation.

b. The problem of protecting intelligence sources and information would be materially increased by the inclusion of coverage of aliens, including those engaged in Agency projects and corporate activities of a covert nature.

c. The proposal contains in part the feature of payments to dependents. Compliance with this arrangement would be extremely difficult in the case of dependents who live in sensitive areas.

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d. In certain of its provisions, the bill appears to embrace unwitting personnel and employees of corporate entities who contract with the Agency.

4. Although we generally favor the extension or liberalization of benefits for Agency employees and other types of personnel, we believe that the legislation in its current form could not be administered securely by the Agency.

a. In this connection, we recommend that the Office of the General Counsel and the Security Office be requested to review and assess the respective legal and security implications of this bill before comments are forwarded to the Bureau of the Budget.

b. We further recommend that the Agency seek modification of the proposed bill as follows:

(1) Exclusion of aliens from coverage.

(2) Insertion of a provision in the bill which will authorize CIA, or sensitive agencies generally, to omit coverage in the contract, or to obtain a specific waiver in the contract, of one or more of the coverages in the bill when necessary for the protection of the national security.



Assistant Director for Personnel

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